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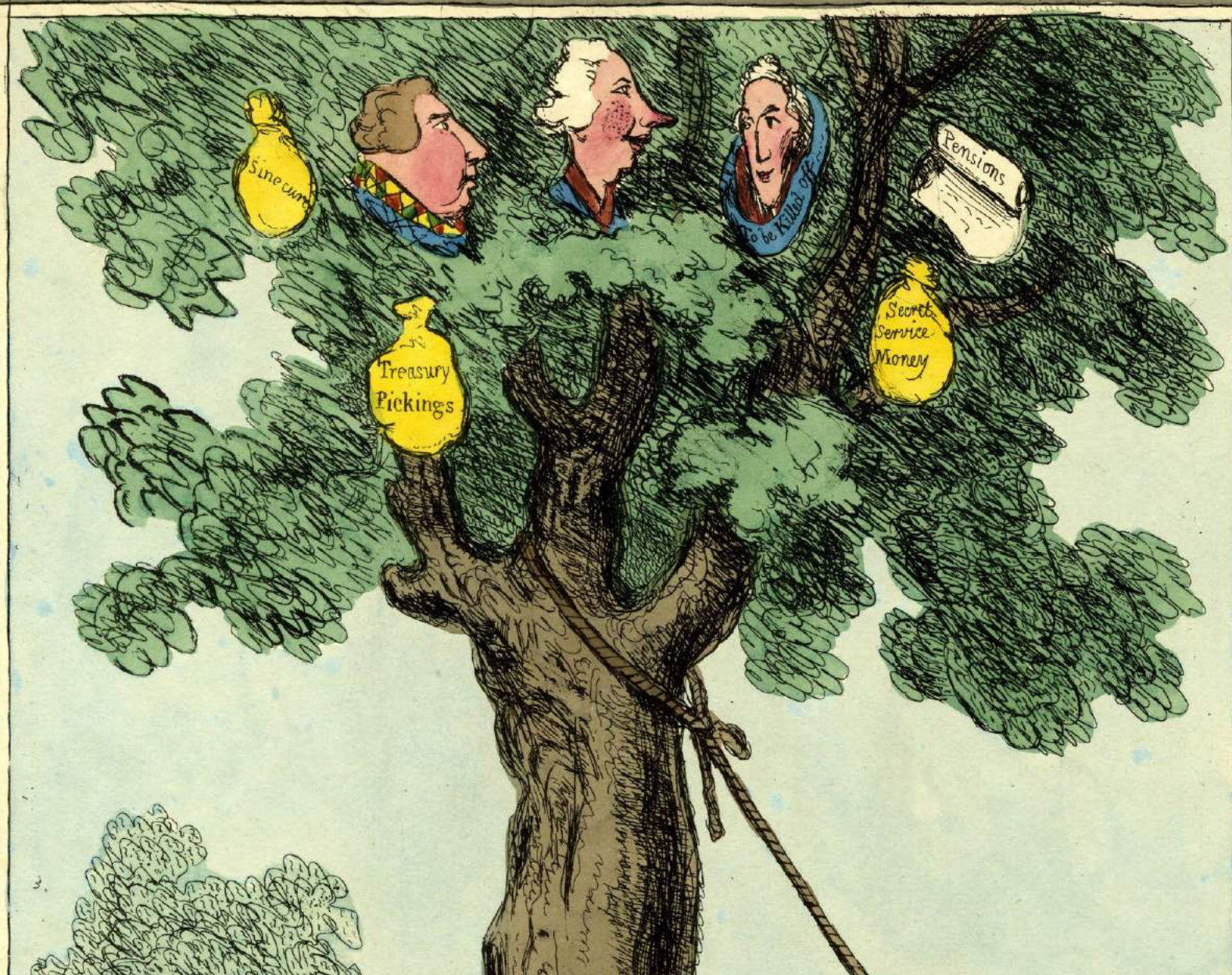
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Old Corruption

What British history can tell
us about corruption today



Publ'd June 22, 1796. by H. Humphrey New Bond Street. The Humphrey des. et fec. - aged 13 Years.

The TREE of CORRUPTION, - with John Bull hard at work.

Gillray

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Introduction

Corruption is not a purely modern problem. Britain's history is littered with scandals and attempts to introduce reforms intended to eradicate what, by the nineteenth century, was called 'Old Corruption'. This report investigates what the past tells us and hence why our history matters. It is striking how few of our earlier struggles with corruption are known about, let alone reflected on as potentially useful data. Thinking about the past can help us to think about the present, not so much because it offers a blue-print for anti-corruption strategies but because it challenges our assumptions, offers alternative visions, and forces us to re-assess concepts and solutions.

What follows draws on research into corruption in Britain and its colonies between the reformation of the sixteenth century (which "reformed" religious institutions and also the secular authorities that supported the new religion) and the reform processes of the nineteenth century (which sought to modernise the parliamentary system but also local and national government as well as the church).¹ During this three-hundred year period Britain was emerging as a complex 'modernising' nation, shifting from a personal monarchy to a parliamentary state and experiencing revolutionary innovations in commerce, finance, press freedom, religious freedoms, global outlook, professionalization, and the capacity to fight large scale war. This, then, was a stage in the evolution of the British state that offers uncanny parallels with many other countries today as they struggle with far-reaching political, religious, economic, cultural and social change. But the parallels need care: each nation has a different history that has shaped its understanding of corruption and its evolution of anti-corruption movements and practices. The British story should not be seen as having a timeless and universal applicability. But it might nevertheless have wider resonances, not least because of Britain's global, imperial influence on other national stories in the pre-modern world; because Britain is today regarded, according to Transparency International's Corruption Perception Index, as relatively un-corrupt; and looked to for leadership in tackling corruption.

What, then, might we glean from looking at our own history of corruption?

The first section of this report suggests that our modern notion of corruption (centred on bribery and probity in office-holding) has evolved in a particular way that is closely related to our past and that in the process alternative ways of thinking about corruption have been largely displaced. The aim of this section is to make us pause before assuming that the North Western European tradition is necessarily the only way of construing proper behaviour, not least because even within its evolution there have been some quite radical and fiercely contested shifts in what corruption meant. We need to keep an open mind about what constitutes corruption if we are to be sensitive to its evolutions. The past reminds us that corruption always has an eye on the future and wants to shape it.

The second section examines how ideas about probity in public office evolved over time, arguing that this key element of our modern notion of corruption was the result of a protracted process that involved social and cultural change as well as, crucially, strengthening notions of power as entrusted by, and accountable to, the people. "Trust" is thus not only the social bond that erodes corruption but also a powerful legal and popular notion that sets out the conditions on which popular sovereignty is given to those who exercise power. There was an active debate in the past about the duties and responsibilities of "office-holders" – those who either held public office directly from the state or non-state office which nevertheless affected the public.

¹ Funded by the Arts and Humanities Research Council.

The third section looks more broadly at what factors facilitate anti-corruption. This highlights the transformations possible if non-partisan commissions systematically examine the administration of governmental departments and public finance; the additional weight when popular and elite pressures coincide; and how campaigns for strong ethics underpin a reform agenda by ensuring that its rationale is embraced rather than being seen as a mere set of abstract rules. It is also argued that the state is both part of the problem and the solution, because although its growth facilitates corruption it also offers the best means to curb it. Two caveats are made. The first is that corruption is a highly resistant problem and that hence reform can take a long time – there is no easy, quick solution. The second is that those mobilising the rallying cry of “corruption” often do so for self-serving or even corrupt ends, so that we have to be careful how we view those pressing for change as well as those resisting it.

At the end of this report is a very short, historical case study about the seventeenth-century diarist Samuel Pepys that is designed to encourage debate about what constitutes corruption and hence also show that history can be a useful way of exploring modern dilemmas about how we should behave.

1. The evolution of ideas about corruption

Corruption is a capacious, changing and contested term

Corruption was, and is, a capacious term with many dimensions. Awareness that there has never been a single, fixed, universal definition of corruption helps us appreciate that our modern notion of corruption is the product of a certain historical process. Today we tend to think of corruption as bribery or the abuse of public office for private gain. Yet bribery was a common law crime that, outside of bribes offered at elections, was not commonly prosecuted until the nineteenth century. Before then, the state was far more concerned with extortion and the abuse of power, and with embezzlement of public funds. The general public was agitated by excessive taxation caused by tribes of self-serving state officials, a corrupt electoral system, the corrupt influence of the Crown on Parliament (the monarchy was thought for much of the seventeenth and eighteenth centuries to be able to pervert the independence of MPs through the rewards of offices, patronage and payments) as well as non-financial types of corruption, such as the corrupting ideas flowing from revolutionary France, or the corruption of morals. The single word “corruption”, then, contained a multitude of meanings. These are often best separated out and treated as discrete but linked problems; and corruption has to be seen as more than bribery. Corruption was thus a more wide-ranging concept than today and different notions of it jostled for dominance.

The most common usage of the word “corruption” in the pre-modern world was as a way of describing man’s original state of sin or his sinful behaviour. Hence it was closely linked with a sense of immorality – corruption is a crime with a peculiarly strong moral resonance. Many of the metaphors that we still use to talk about fiscal and political corruption are rooted in this earlier religious meaning. Thus the first mention of the “canker of corruption” occurs in a 1590 religious tract; “clean hands” derives from a Biblical psalm; and the idea of a polluted stream or fountain of corruption is similarly a Scriptural metaphor. Protestant hostility to popery was one way in which a fiscal notion of corruption became popularised: the Catholic Church was seen not only as theologically corrupt but Rome was also regarded as a corrupt institution, extorting money from its followers. “Nepotism” was also closely associated with Popes who favoured their kinsmen to privileged places: the word entered the English language in 1669 when *Il Nipotismo di Roma* was published – Samuel Pepys and his wife enjoyed reading it before supper one evening. Lord Acton’s nineteenth-century dictum that absolute power corrupts absolutely was also made in response to a history of the papacy.

In the eighteenth and nineteenth century, whilst this religious sense of the term persisted, other types of corruption – administrative, imperial and parliamentary in particular – rose up the agenda, largely because the state and its resources expanded, thereby creating new challenges of control and oversight. In other words, the targets of anti-corruption shifted somewhat – and they continue to do so today. No sooner has one of the corruption hydra’s heads been cut off, than a new one grows in its place. Corruption changes shape and anti-corruption is a process, not a set of magical levers that need only be pulled once.

Besides religious and moral issues, shifting ideas of corruption are also apparent in other spheres.



Image 1: The Whig politician Charles James Fox is shown cutting off corruption, one of the heads of the hydra that threatened the people. In mythology the hydra's heads re-grow. © Trustees of the British Museum

Politics

In the early sixteenth century Nicholas Machiavelli suggested that states rose and fell, with periods of corruption and others in which virtue and liberty prevailed. For him, political corruption was about the erosion of political or civic virtues rather than abuse of office or extortion of money. Machiavelli therefore worried about the decay of whole political systems. The republican tradition in Britain often looked back to Machiavelli and worried about this systemic decay, attempting to devise political frameworks to ensure that political virtue could be maintained. Indeed, this was a powerful current in anti-corruption ideology throughout the seventeenth and eighteenth centuries. Others, particularly in the radical tradition, used corruption to describe oppressive forms of power. Thus the Levellers in the mid seventeenth century attacked both the monarchy and Parliament as corrupt oppressors of the ordinary people; and early nineteenth century radicals similarly argued that the political system was corrupt and oppressive, capable of extracting large amounts of money from John Bull, only to redistribute it among the rich. Marxism similarly saw systemic corruption when the state in the service of capitalism had degenerated into a force of self-interest. Today this broader understanding of corruption is often sidelined but it is one with an enduring appeal to popular protest movements which we see around the world.



— "A race obscene,
Spawn'd in the muddy beds of Nile, came forth,
Polluting Egypt: gardens, fields, and plains,
Were cover'd with the pest;
The croaking nuisance lurk'd in every nook;
Nor palaces, nor even chambers, 'scap'd;
And the laud stank – so num'rous was the fly."

THESE ARE

THE VERMIN

That plunder the Wealth,
That lay in the House,
That Jack built.

Image 2: This image, by George Cruickshank, illustrated *The Political House that Jack Built* (1819), one of the most successful of the radical publications of William Hone, a persistent critic of corruption. © Trustees of the British Museum

Money

Corruption has always been equated with unfair and oppressive acquisition of wealth, but what constituted unfair riches and legitimate profit changed over time. What we think of as corrupt today in the financial sphere has been shaped by history? This can be illustrated by looking at usury, self-interest, luxury, monopolies and the stock market.

Usury

Making money from interest on loans, is a good example of how ideas about corruption changed over time. A law of 1487 banned usury. Until the seventeenth and eighteenth centuries, usury was condemned as immoral and unneighbourly, associated with the sins of covetousness and avarice. Yet this view underwent a profound change. Over the course of the sixteenth century a limit to the amount of interest that could be charged was set; and in 1624 this became an effectual state-controlled interest rate of 8 per cent, gradually reduced over time, to just 5 per cent in 1713. Interest was by then increasingly justified as an intrinsic part of the new financial system. What had been seen as sinful became legitimised.

Self-interest

For most in the sixteenth and seventeenth centuries, self-interest was condemned. Indeed, “self-interest” and “selfish” were coined in the 1640s and 1650s as pejorative terms; “self-promoting” came in 1662 and “self-advancement” in 1707. Many writers, from both a secular and religious perspective, feared self-interest as a highly corrosive force. Yet this too began to change. In the early eighteenth century Bernard de Mandeville wrote a series of provocative pieces in which he argued that private vice, including self-interest, was a public benefit because it stimulated the economy.² At least since Adam Smith, writing *The Wealth of Nations* in 1776, we have tended to see self-interest in a much more positive light and even as a means of deterring corruption. Susan Rose-Ackerman thus concluded in her highly influential 1999 analysis of corruption that “there is one human motivator that is both universal and central to explaining the divergent experiences of different countries. That motivator is self-interest, including an interest in the well-being of one’s family and peer group. Critics call it greed. Economists call it utility maximisation. Whatever the label societies differ in the way they channel self-interest. Endemic corruption suggests a pervasive failure to tap self-interest for productive purposes.”³ Self-interest has thus gone from being seen as something intrinsically corrupting to something that can eradicate corruption – though such conclusions were also contested in the past and remain controversial today.

Luxury

Intrinsic to Smith’s ideas were also changing (though again deeply contested) views about luxury. In the eyes of the protestant churches and the Machiavellian republican tradition, luxury was thought to be corrupting of a nation’s morality and virtue as well as its readiness to fight war. Luxury was thus politically and commercially corrosive. One moralist in 1736 lamented that “The prodigious Spirit of Pride, Luxury, Profuseness, Vanity and Corruption, that hath shewn itself in this Kingdom for some Years past, (and which if not speedily remedied, will inevitably put an end to the Name, Trade, and Constitution of the British Nation) begins now to be felt by every honest and thinking Subject: Nothing but Extravagance, Voluptuousness and Idleness, with all their direful Consequences, being seen in every Corner of the Kingdom.”⁴ As late as 1800 a cleric, Adam Sibbit, argued that “Luxury has been the bane of every nation”, leading to its ‘debility and corruption’.⁵ Yet such views were questioned. Mandeville had argued that private vices, including luxury, were “public benefits” and others agreed that luxuries promoted trade and were economically useful as well as civilising. Luxury as a positive force was not universally accepted at any point in the pre-modern period but it certainly became more acceptable and even embraced as a public good.

² These are accessible at <http://oll.libertyfund.org/titles/mandeville-the-fable-of-the-bees-or-private-vices-public-benefits-vol-1>

³ Susan Rose-Ackerman, *Corruption and Government: Causes, Consequences, and Reform* (Cambridge, 1999) p.2

⁴ Erasmus Jones, *Luxury, Pride and Vanity* (1736) p.1

⁵ Adam Sibbit, *A Dissertation, Moral and Political, on the Influence of Luxury and Refinement on Nations* (1800) p.9

Monopolies

Similarly monopolies were initially seen by the emerging state as a way of generating important revenue and promoting trade but were increasingly condemned as corrupting. Granting a monopoly, it was suggested, conferred a protected status that could nurture commerce, and in the international sphere was seen as vital as a way of advancing the national interest over continental, imperial rivals. Thus throughout the seventeenth and eighteenth centuries the state – initially the Crown but increasingly Parliament – granted monopolies. To be sure, criticism of monopolies was rife throughout this period; but the idea that a monopoly was the best way to advance trade took a long time to change. The East India Company's monopoly was not removed until 1833. It is only relatively recently that free trade has been considered a better commercial system, so that the protectionism inherent in Britain's rise to great power status seems a corrupt mingling of state and the market. Until then, it was abuses in the way in which monopolies were obtained or administered that generated the real heat of anti-corruption, not the system itself.

Stock market

Almost since its inception in the later seventeenth century the modern financial system (a state bank, national debt funded by taxation, and stock market) was regarded as corrupt and corrupting. At this time the stock-jobber – an agent who dealt in shares and talked their value up or down – was the object of a huge amount of public scorn, particularly in the aftermath of the first stock market crash, the South Sea Bubble in 1720, when some investors made enormous losses. Jonathan Swift and others attacked the “monied interest” as corrupt, self-interested and a threat to the true interest of the nation. One of the leaders of the early Tory party, Lord Bolingbroke, had no doubt that “the opportunity of amassing immense estates by the management of funds, by trafficking in paper, and by all the arts of jobbery, was a reason of private interest to those who supported and improved the scheme of iniquity, if not of those who devised it”.⁶ Few in the pre-modern era trusted the money markets and financial system to work for the public good; many saw them as the epitome of corruption, generating wealth for only a self-serving few who had their noses in the trough, especially when integrated with a corrupt parliamentary system. Yet the stock market, too, became a permanent feature of the financial system, legitimised as a way of making money both for private individuals and the state.

These shifts in attitudes, and different conceptions of political and economic corruption, in the past remind us that our current notions of what constitutes corruption are not timeless, inevitable and universal abstractions but part of a historical process. Notions about what is unfair, unjust or immoral change over time, in part in response to anti-corruption campaigns that help to define what is found to be offensive.

⁶ Henry St. John, Viscount Bolingbroke, *Letters on the Study and Use of History* (1752) p. 39



Image 3: A detail of an early seventeenth century satire of Sir Giles Mompesson, the epitome of a greedy “monopolist”. As the text explains, an anagram of his name “Mo-Empsons” recalls Henry VII’s minister Sir Richard Empson who was executed in 1510 for treason, though corruption explained much of the hostility against him. © Trustees of the British Museum

2. The Evolution of Modern Notions of Office-holding

Corruption is often defined as the abuse of public office or public power for private gain.⁷ Understanding what constituted “abuse of public office” is aided by an appreciation of the history of office-holding, which highlights another series of fundamental shifts. From being responsible to the monarch, office-holders became responsible to the people. Instead of private pieces of property, offices came to be thought of as the property of the state. And instead of positions that were filled out of a sense of the obligations of social status, a less personal form of authority came to be idealised. What follows sets out these shifts in order to show that our norms in these regards were worked out over a long period of time.

Public office was often seen as a quasi-personal position with informal remuneration and we need to understand both what motivated people to act “corruptly” and how they could justify, to themselves and publicly, what they did.

Although officials in state departments were appointed by the monarch on salaries, many more office-holders received little or nothing from the state – even payment to MPs was phased out in the seventeenth century because it was thought to be a burden on taxpayers and restrict the independence of MPs (salaries were not re-introduced until 1911). Nor was there any general pension system for those serving the state until the nineteenth century. Appointment to some key posts, such as local magistrates, was a reflection of social status rather than ability and was seen as a social responsibility. Many officers acted out of a sense of duty rather than for reward, though many were also entitled, legally, to charge fees and enjoy certain perquisites (“perks”). There was also a semi-legal trade in the sale of offices – this was so open that it even featured in newspaper advertisements.

The revenue generated from fees, perquisites and sales was often an intrinsic and legal part of the way the “system” operated. Similarly, the electoral system was often deeply influenced by social and financial factors as well as ideological ones: successful candidates, particularly from the second half of the eighteenth century onwards, spent vast fortunes in electioneering. Historians have thus pointed out that power in the 18th Century state was often very localised and personal. There was thus a “social history” of corruption. This meant that few people sought to, or were able to, act on the basis of impartial rules of office, needing instead to rely on the “custom and practice” that had become the way of doing things, which provided a legitimating defence against charges of corruption, and neutralised allegations of immorality. It also made for a rational self-justification.

⁷ The World Bank, United Nations, OECD and EU use this definition.

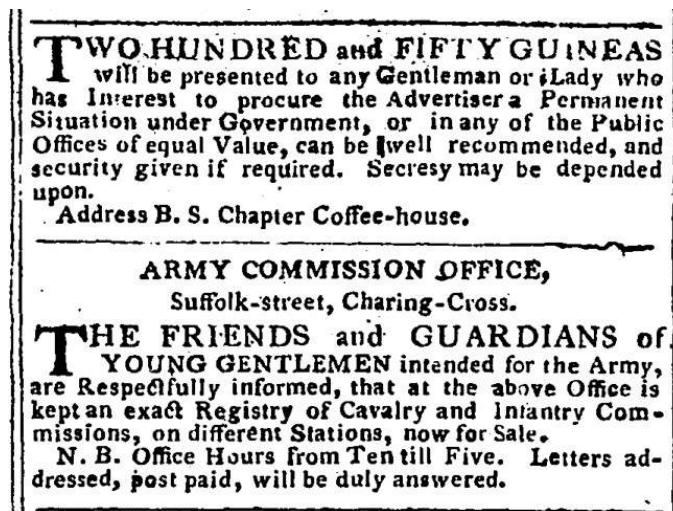


Image 4: Two advertisements from *The Oracle and Public Advertiser* 20 Jan. 1798 placed by those seeking or selling offices in the state and army

In 1670, reviewing his own receipt of “gifts”, Samuel Pepys talked of “those gratifications which both practice and the quality of my place might justify an expectation and acceptance of...when employed in matters of lawful favour to private men”.⁸ Seen from the perspective of those occupying office, surrounded by customary expectations and obligations, it is not difficult to understand why they behaved as they did, even if we are now clear that such conduct would be wrong. But this underlines both that we need to understand how people see their own conduct and that anti-corruption initiatives will fail unless we understand the extent to which the “system” steers people to behave in certain ways, and the ways in which they have internalised different codes of behaviour as legitimate.

The evolution of public office: office as a piece of personal property that could be sold

Notions of, and regulations concerning, public office gradually shifted over time. One key aspect concerned the sale of office. Legislation against the sale of office was very weak: two statutes dating from 1388 and 1552 governed offices administering justice and the royal revenue, but their very limited scope enabled quite widespread venality of posts together with large scope for informal and often unfixed fees. Yet a series of interesting legal cases clarified and limited what was permissible.

In 1725 the highest law officer in the land, Lord Chancellor Macclesfield, was prosecuted in Parliament for selling offices in the court of Chancery. His defence rested largely on the idea that office was a private property: “every Man has a natural Right to dispose of his own Estate or Interest, his own Friendship or Favour upon what Consideration he pleases: it is his own and therefore has a Right to make any just and legal Advantage of it”.⁹ Thus, Macclesfield argued, “taking a Present, or taking Money from Persons upon their Recommendations or Nominations into Offices, though they do concern the Administration or Execution of Justice, is not a Crime in its own Nature; it is no Act of Immorality; it is no Act of Injustice to any Man”.¹⁰

⁸ Guy De la Bédoyère (ed.), *The Letters of Samuel Pepys, 1656-1703* (2006) pp.81-2, Samuel Pepys to the Brooke House Commissioners, 6 January 1670.

⁹ *Cobbett's Complete Collection of State Trials* (1812) xvi. 1087

¹⁰ *Cobbett's State Trials* xvi. 1088

Indeed, his defence asserted, “The Publick is concerned only in the Goodness of the Officer, not how advantageous to him the Grant of the Office is, nor in the Inducement to which he that appointed him had to put him in: whether Friendship, Acquaintance, Relation, Importunity, great Recommendation or a Present”.¹¹ Macclesfield was nevertheless found guilty of “high crimes and misdemeanours” because of the sales of office he had transacted and fined £40,000.

This did not end the matter. In 1769 Samuel Vaughan was alleged to have tried buying an office in Jamaica from the Prime Minister of the day, the earl of Grafton. He too tried arguing that if a competent official was put into the place, then “the public have no business to enquire into it”.¹² Vaughan too was condemned. But it took another scandal, surrounding the sale of offices by the duke of York, George III’s son, and his mistress Mary Clarke to achieve legislative change in 1809. Even after that, army commissions continued to be sold until 1871. Nevertheless, attitudes to the sale of civil offices had clearly, if slowly, changed.



Image 5: Lord Chancellor Macclesfield, who was prosecuted for corruption in 1725. © Trustees of the British Museum

¹¹ *Cobbett's State Trials* xvi. 1274

¹² Samuel Vaughan, *An Appeal to the Public on behalf of Samuel Vaughan Esq* (1770) p.55

The Evolution of Misconduct in Public Office.

A case in 1783 is taken to be the foundation of the modern law on misconduct in public office – a crime that the Law Commission has announced in 2016 it would like to see move from common law to statute.

Charles Bembridge was an accountant in the army pay office accused of concealing £48,000 owed to the state by the Paymaster General Henry Fox, Lord Holland. In the eighteenth century, some senior officers were allowed to keep public money in their hands in order to make payments. Bembridge's defence was that he had not broken a law and could not have been expected “to turn a spy” on those who employed him; if he had done, “all mankind must have hooted and hissed him”.¹³ Bembridge's counsel argued that there were “other ways of punishing” such men than by such prosecutions.

The prosecution put the case very differently. The Solicitor General, arguing for the Crown, said that Bembridge's defence was claiming that “it is the excuse of a man in a public office, that he connives at public crimes because his friend commits them”.¹⁴ He also insisted that if Bembridge was acquitted, “not only this man must go unpunished but all the people in all the offices, in this kingdom, of the same sort, may do the like with impunity”.¹⁵ He laid it down that “if this is a public office, it appears to me to be a principle that it has public duties belonging to it”.¹⁶ The Judge, Lord Mansfield, agreed: Bembridge

...was a trustee of the public and the Paymaster, for making every charge and every allowance he knew of ...if the defendant knew of the omission...and if he concealed it, his motive must have been corrupt. That he did know was fully proved and he was guilty, therefore, not of an omission or neglect but of a gross deceit. The object could only have been to defraud the public ... a man accepting an office of trust, concerning the public, especially if attended with profit, is answerable criminally to the King for misbehaviour in his office; this is true by whomever and in whatever way the officer is appointed.¹⁷

The evolution of office as a public trust

Mansfield referred to “an office of trust concerning the public”. The notion of trust is extremely important. Transparency International's definition of corruption is the abuse of entrusted power for private gain and it is in the seventeenth and eighteenth centuries that the notion of entrusted power emerged. Trust was initially a body of law relating to private property; but it came to be applicable to public office. How and why did this change occur?

One reason was the ideological contest between Crown and Parliament in the seventeenth century. In 1642, in a last ditch (and unsuccessful) attempt to stave off civil war, Parliament presented King Charles I with a series of propositions; in refusing them, the King invoked the trust he had received from God. This prompted a lawyer and polemicist called Henry Parker to note that “The word Trust is frequent in the Kings Papers, and therefore I conceive the King does admit that his interest in the Crowne is not absolute, or by a meere donation of the people, but in part conditionate and fiduciary”.¹⁸

¹³ *Cobbett's State Trials* xxii. 56

¹⁴ *Cobbett's State Trials* xxii. pp. 68-9

¹⁵ *Cobbett's State Trials* xxii. p.69

¹⁶ *Cobbett's State Trials* xxii. pp.69-70

¹⁷ Reports of Cases Argued and Determined in the English Courts of Common Law (1835) xxvi. 128

¹⁸ Henry Parker, *Observations upon some of his Majesties late Answers and Expresses* (1642), p.4

Parker argued that the people, through Parliament, entrusted the king with his power; that his power was therefore conditional; and that a breach of trust occurred when power was abused. The Puritan William Prynne, also declared that the king was “in nature of the Heire of a Feoffee in trust, for the use and service of the kingdome”.¹⁹ In other words, Parker and Prynne applied the legal notion of trust, which had largely been related to private property, to public office. These ideas were both rapidly taken up and extended. Public offices more generally became referred to as “places of trust”. Thus on 17 Feb. 1642 the House of Commons voted that “the Buying and Selling of Offices of Trust belonging to Courts of Justice, and the Commands of Forts, Castles, and Places of Trust, are Causes of the Evils of this Kingdom”.

The idea of office as a trust was perhaps so readily embraced because of widespread knowledge of Cicero’s classical work *De Officiis* which argued that “the Government of a State is much like the Office of a Guardian or Trustee; which should always be manag’d for the good of the Pupil, and not of the Persons to whom he is entrusted”.²⁰

But it was not just the monarch’s actions in the seventeenth century that stimulated the development of the notion of office as trust, for the behaviour of MPs in Parliament alarmed pressure groups such as the Levellers, who feared that they had replaced a monarchical with a parliamentary tyranny. In tract after tract, John Lilburne and other Levellers thus referred to MPs as “entrusted” by the people. Lilburne and Richard Overton argued “that all Majesterial Power in England whatever, are but Offices of trust, and bound up with this limitation, to be executed for the good of the trusters” and that just as the king had breached his trust “the same doe we aver of a Parliament, and Parliament-men ... when they cease to execute the end of their trust, which is as themselves say, to provide for the peoples weales, but not for their woes, and doe meerly indeavour to make themselves tyrants over the people”.²¹ The Levellers were defeated; but this idea had a long afterlife. MPs were frequently referred to thereafter as ‘trustees’ for the people.

The notion that monarch and representatives were merely given entrusted power by the sovereign people became the bedrock not only of political theory – codified in the ideas of John Locke and Algernon Sidney – but also routine in the on-going struggles throughout the seventeenth and eighteenth centuries against encroaching monarchical power and a corrupt Parliament. An influential periodical, *Cato’s Letters*, published in the wake of the 1720 South Sea Bubble, and amid anxiety about political and economic corruption, argued that all government “is therefore a trust, which ought to be bounded with many and strong restraints, because power renders men wanton, insolent to others, and fond of themselves. Every violation therefore of this trust, where such violation is considerable, ought to meet with proportionable punishment”.²² Corruption as a breach of trust figured in numerous trials, including most impeachments – the phrase was used nine times in the charges brought against the governor of the East India Company, Warren Hastings, when he was accused of corruption in 1786. Moreover, the idea of entrusted power also migrated to the American colonies. The 1662 Connecticut charter was granted “in Trust” for the benefit of settlers there, and other colonial charters followed suit. Breach of trust also figured in the rhetoric used by the colonists when asserting their independence. In 1765 John Adams said that “rulers are no more than attorneys, agents, and trustees, for the people”²³ and the Virginia Convention demanded a bill of rights declaring that that “That all power is naturally invested in, and consequently derived from, the people; that magistrates therefore are their trustees and agents, at all times amenable to them”.²⁴

¹⁹ William Prynne, *The Sovereigne Power of Parliaments and Kingdomes* (1643), ‘The Parliaments Interest in the Militia’, p.12

²⁰ Marcus Tullius Cicero, *Tully’s Three Books of Offices, in English* (1699) p.83

²¹ John Lilburne and Richard Overton, *The Out-cries of Oppressed Commons* (1646) pp.17-18

²² *Cato’s Letters* 38, 22 July 1721

²³ William Cranch, *Memoir of the Life, Character, and Writings of John Adams* (Washington, 1827) p.18

²⁴ Virginia Declaration of Rights, 12 June 1776

Trust had become a concept that spread throughout the English-speaking world. It carried principles that underpin anti-corruption measures: that trustees work for the good of the entrustors not themselves; that they should not profit from being trustees; that the trustee has a duty of care; and that trustees have discretion but can be held to account when that discretion is abused. The establishment of that notion was the result of national trauma but also a thickening of the law, as well as the work of political theorists and popular campaigners.

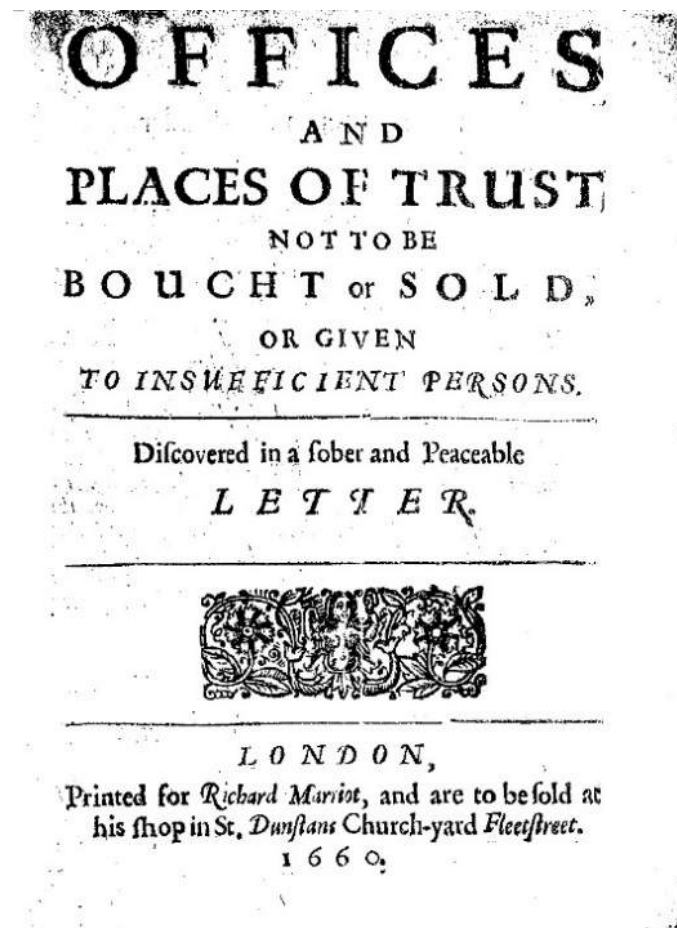


Image 6: A tract of 1660 attacking the sale of offices which it calls “Places of Trust”.

The Evolution of Accountability

Notions and practices of accountability grew alongside the development of trust. Accountability has different facets: it means the ability to scrutinise financial accounts but also holding someone to account. An auditor was someone who examined ledgers but also literally “heard” the person wishing to have his accounts validated. Accountability was thus both numerical and verbal.

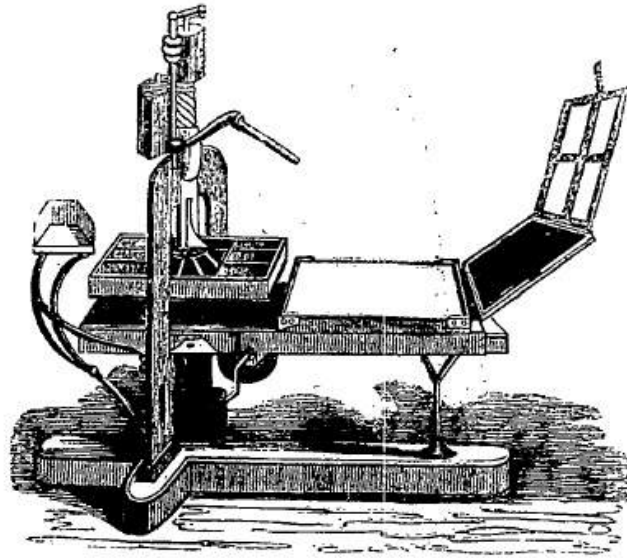
Fiscal accountability developed slowly and unevenly across the seventeenth and eighteenth centuries. Although the medieval system of royal courts provided a basic check on income and expenditure, the enormous expansion of the state in the seventeenth and eighteenth centuries placed great strain on it. Once again the seventeenth-century civil war plays a significant role as a trigger, since the practice of parliamentary scrutiny of accounts was a product of Parliament raising its own money to equip its own army. The 1640s and 1650s saw new ways in which the state raised finance and new ways of accounting for its expenditure. But the development of public accounting was not linear. After the restoration of the monarchy in 1660, parliamentary scrutiny of public accounts became less intrusive.

Only after the second revolution of the seventeenth century, in 1688-9, did a parliamentary committee acquire the teeth to investigate corruption but this body became abused as a political weapon and in 1714 it was allowed to lapse. It was only revived in the early 1780s when the cost of the war with America put retrenchment and reform back on the agenda. The 1785 commissions of accounts – significantly not parliamentary – was instituted not only to investigate but also to suggest reforms. The appointment of a non-partisan commission with a reformist remit proved instrumental in introducing a series of measures – over several generations – that reduced the number of redundant offices, replaced fees with salaries, and introduced and systematised new administrative procedures.

Accountability in the form of a free press had a similar chronology and degree of uncertainty. Until 1641 the government relied on pre-publication censorship of the press to restrict public discussion. Whilst manuscript libels did circulate freely and indict corruption, the proliferation of printed attacks after 1641, when the government lost control of the press on the eve of the civil war, moved public accountability to a new level. Access to cheap print meant greater scrutiny of public officials and exposure of their misbehaviour. Censorship was re-imposed in the 1650s and again under the restored monarchy after 1660 but was removed briefly in 1679 and then permanently after 1695. Thereafter, and particularly in the second half of the eighteenth century, the quantity of print expanded dramatically and the newspaper, a seventeenth innovation, flourished.

Authors, publishers and printers made use of the freedom of the press to bang the drum of anti-corruption: this was a central feature of *The Craftsman*, published in the 1720s and 30s to critique the administration of Prime Minister Sir Robert Walpole; the journalism of an anonymous anti-corruption campaigner who signed himself “Junius” in the late 1760s and early 1770s; and then of the Radical periodicals by William Cobbett, William Hone, Richard Carlile and Thomas Wooler in the late eighteenth and early nineteenth centuries. Freedom of the press became a cherished principle for these anti-corruption voices, not least because of government attempts to silence them. William Hone, for example, was tried three times in three days in 1817 for his satires on the corruption of the ministry after the Napoleonic Wars and championed the press as “the thing” that could “poison the Vermin” who plundered the wealth of the nation.²⁵ Governmental repression of the press was far from over, but it had become increasingly axiomatic that freedom to print not only went hand in hand with anti-corruption but was also increasingly seen as part of the rights of free-born Britons.

²⁵ William Hone, *The Political House that Jack Built* (1819)



" Once enslaved, farewell!
 Do I forbode impossible events,
 And tremble at vain dreams? Heav'n grant I may!"

THIS IS

THE THING,

that in spite of new Acts,
 And attempts to restrain it,
 by Soldiers or Tax,
 Will *poison* the Vermin,
 That plunder the Wealth,
 That lay in the House,
 That Jack built.

Image 7: Another image from William Hone's 1819 pamphlet, showing the power of the press to "poison the Vermin" who plundered the wealth of the country. © Trustees of the British Museum

3. What factors facilitated anti-corruption efforts?

The previous section showed that administrative reform came about from the 1780s onwards because of the appointment of a non-partisan commission that systematically reviewed the practice of all the major government departments and how public finance was handled. The foregoing account also stressed that a mixture of corruption scandals, awareness within the political elite about the need for change, intellectual victories over trust and wider agitation against corruption led, somewhat haphazardly (the state showed very little capacity for a collective memory or even to sustain its measures) and over a long period of time, to a series of legal cases and administrative reforms that cumulatively reshaped the relationship between state and office-holder. Yet this thickening of practice and law was not in itself sufficient.

What other factors promoted change?

The efforts of individuals who championed anti-corruption were important in keeping anti-corruption on the agenda but in themselves their achievement was often very limited. Although some of their ideas may eventually have been taken on board, individual promoters seldom achieved what they wanted and were often victimised by governments or administrators who resisted change. In the first decade of the nineteenth century James Gilchrist, for example, proposed many reforms of the navy that were eventually taken up; but he was given little protection against the vested interests that he was fighting and was himself accused of corruption in order to silence him. Plenty of other examples underline the unhappy life of whistle-blowers.

Popular pressure was more successful. The previous section highlighted the growth of the press as an agent of accountability; and print was part of the pressure “the public” (itself a new term from the seventeenth century onwards) was able to exert. Other mechanisms mobilising and articulating popular pressure included petitions which were sent in their thousands to Parliament and monarch to expose grievances and request that they be redressed. Mass petitions were a feature of the seventeenth, eighteenth and particularly the nineteenth centuries. The mobilisation of opinion through clubs, societies and associations – the growth of what we might call “civil society” – was another way to exert pressure. So too was more unruly forms of protest: crowd anger, riots and even disturbances. The Great Reform Act of 1832, which addressed the corruption of the parliamentary system by abolishing “rotten boroughs” that enabled the wealthy to buy their seats at Westminster, was thus achieved in part because of the fear of unrest.

Corruption is a term that has always resonated with the public as a way of condemning systems (conveying a notion of decay from an earlier or ideal better state), or people (condemning certain types of behaviour: self-interested, undermining the common good, oppressive, excessively greedy, taking unfair advantage). What constituted a better state, or the public good, or oppression, or greed, or injustice could be endlessly disputed and redefined (and in a sense the debates about what constituted corruption were part of the point about anti-corruption movements); but the debates mattered. Moreover, failure to take measures against corruption led to scandals and popular unrest but also to major convulsions: the sixteenth century protestant reformation, the seventeenth century puritan revolution, the eighteenth century conflict with the American colonies, the nineteenth mass agitation around parliamentary reform were movements with multiple causes but all had anti-corruption figuring largely in them. Anti-corruption has the potential to mobilise large forces.

Public pressure was most effective when the public itself had a clear set of ethical values that it sought to impose on the “system”. There was something of a tension between those who thought that “measures” (structures and mechanisms to restrain corruption) were more important than “men” (the character traits of honesty and integrity). Some, such as James Harrington in the seventeenth century, sought to construct a political architecture that ensured virtue. And over time regulation after regulation was introduced. But adherence to rules alone was insufficient to ensure compliance and many were convinced that personal moral integrity was important. Campaigns against corruption thus often coincided with “moral reform” movements or attempts to promote a sense of duty beyond private interest. Even if not explicitly religious, these advocated an internalisation of public duty and private integrity.

A good example might be Lord Macartney, sent to India in the early 1780s in the wake of the Hastings affair, who self-consciously promoted a notion of strict integrity (which in his case was supplemented or drew inspiration from his religious beliefs). He denied his own integrity arose from any “heroic Virtue” but said that he had “a stronger passion than the love of money; and if I contribute to reinstate this Country in its former glory, I shall feel infinitely more pride and satisfaction than all” the fortune of a corrupt “nabob” who brought back vast wealth.²⁶ As this suggests, anti-corruption was often accompanied by a professed patriotism and this became part of British national identity.

During Hastings’s trial, his prosecutor Edmund Burke said that “if any one thing distinguishes this nation eminently above another, it is the dignity attached to its offices, from this, that there is less taint of corruption in them; so that he who would, in any part of these dominions, set up a system of corruption, and attempts to justify it on the score of utility, that man is staining, not only the general nature and character of office, but he is staining the peculiar and distinguishing glory of this country”.²⁷ To be sure there were many who saw such claims to patriotism as a veneer for self-interest; but anti-corruption was accompanied by religious, humanist, republican or patriotic internalisations of a world beyond the self. These sentiments drove anti-corruption initiatives but were also seen as ways of ensuring compliance. There had to be something internalised beyond the mere rules. At the very minimum this required a reflective and pervasive public discussion about what constituted corrupt behaviour; at its more rigorous, it also involved allegiance to something bigger than individual self-interest.

Reform was also initiated by a series of paradoxical factors. War both stimulated corruption and anti-corruption: it expanded the opportunities for corruption, since it created a state with expanding resources of money and offices, but it also promoted ideas of retrenchment, accountability and reform. The state grew because of war: this both created parasites who fed off the growth and posed challenges about how the growth was managed and how oppressively greedy behaviour at the expense of the public could be curbed. War also often led to socio-economic dislocations which unleashed popular radicalism and protest against those who were thought to be unfairly profiting from others’ misery. These were times when the “cost of corruption” was most apparent.

Another paradox was that reform needed Parliament to enact legislation but Parliament itself needed reform. Parliament, for much of the pre-modern period, was seen as corruptly elected, full of self-interested MPs unduly influenced by interests other than those of their constituents. Extra-parliamentary pressures or initiatives were therefore vital. These included early forms of civil society, such as the Yorkshire Association in the 1780s, which pressurised for reform, and radical societies, such as the Corresponding Societies of the 1790s, which sought more root and branch reform. Change was achieved quickest when both popular and elite pressures coincided.

²⁶ Bodleian Library, Oxford, Lord Macartney’s Correspondence, p.5 Macartney to John Sullivan, 28 Jan. 1782

²⁷ *The Speeches of the Right Honourable Edmund Burke* (1815-16, 4 vols), iv. 375 (18 Feb. 1788)

Corruption is sometimes seen as a stage in economic development that reduces when wealth increases; but it could equally be said to be reduced when the institutions of the state are thickened and strengthened thereby making the rule of law impossible to evade and creating expectations of higher standards in public life. Although modern definitions of corruption seem to place the blame for corruption primarily on public officials and the state, in the name of freeing individuals and markets from state authority, corruption (or at least the administrative form of it) was increasingly restrained as the state and its bureaucratic processes were strengthened. There is no simple story here. Strong states enable the implementation of legal systems and standards of impartiality, and they allow the formalisation of markets and systems of exchange. But strong states also attract powerful pressures to act in the interests of particular groups – a state without power is not worth influencing, whereas one with it certainly is. That is why the state is both part of the solution as well as part of the problem.

Two Caveats

In considering the factors fostering anti-corruption we should also pause to acknowledge two important features of reform movements.

1. Reform takes a long time!

It is salutary, in an age looking for quick fixes to corruption, to recognise that Britain witnessed anxieties about, and fought against, corruption for at least three hundred years. The focus here is on 1550-1850 but the story might have been expanded before and after these dates. We should not now be looking for very rapid success with simplistic anti-corruption programmes when this has not happened in the past.

Some political scientists argue that corruption is something that can be cured with a “big bang” of reforms lasting only a relatively short time.²⁸ There is certainly a lot to be said in favour of a concerted effort to implement reform. Sweden is given as an example of this, having, it is said, achieved administrative reform over a period of about 20 years in the second half of the nineteenth century (1855-75). Yet this is already far longer than most anti-corruption programmes run for; and the Swedish case seems to have rested on a groundswell of prosecutions for the previous fifty years.

The British case similarly demonstrates that although there were a series of reforms over a sixty year period 1780-1840 these drew on a long history of anti-corruption campaigns. Moreover, even in 1840 Britain was not entirely un-corrupt - the title of an 1853 pamphlet *Is Bribery without a Remedy?* is enough to indicate this – and a focus on the success of administrative reforms masks other types, such as colonial and electoral corruption as well as crony patronage, that persisted. In any case, both the Swedish and British reform campaigns were triggered by traumatic losses in war (the 1809 cession of Finland to Russia in the Swedish case; the 1781 loss of the American colonies in the British case) so these are problematic policy remedies. In short, the “Big Bang” notion may raise unrealistic expectations of a quick fix and rely on trauma as the trigger to reform. This is, however, not to argue against decisive and wholesale interventions. Such campaigns were historically extremely important during the sixteenth century Reformation, seventeenth century Puritan Revolution and later Georgian period. But we should not have unrealistic timescales or expectations for them.

As we have seen, there were certain periods of British history – the 1530s, the 1640s-50s, and the 1780s-30s -when dramatic change did occur. But rather than thinking in terms of “big bang” solutions we might be better off thinking of anti-corruption as an on-going process rather than a one-off cleansing event, a process that went in waves of activity and was directed against shifting targets.

28 Bo Rothstein, *‘Anti-Corruption: A Big-Bang Theory’*, Social Science Research Network QoG Working Paper (12009) No. 2007:3, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1338614; Rothstein, *The Quality of Government: Corruption, Social Trust, and Inequality in International Perspective* (Chicago, 2011)

2. Anti-Corruption was often politically motivated

Many attacks on corruption were politically motivated, partisan, and aimed at personal, political, economic or religious rivals. We could point to the attacks in 1621 on the corruption of Lord Chancellor Bacon who was too closely associated with the faction of the duke of Buckingham; or the attack in 1695 on the ex-leader of the early Tory party, the duke of Leeds; or the attack on Warren Hastings, the governor of India, in what proved to be the longest parliamentary trial in British history (lasting 8 years, 1787-1795), who was hated by a rival East India Company faction.

Even less partisan attacks were often fuelled by political considerations. Prosecutions were to some extent inevitably politicised by the use of Parliament to investigate and then bring miscreants to account. A useful measure to use against the corrupt was that of “high crimes and misdemeanours” but this crime had to be prosecuted in Parliament through the process of impeachment – a type of trial that had fallen out of fashion in the middle ages but which was revived specifically for the 1621 corruption trial of Francis Bacon. Thereafter impeachment was frequently used for corruption trials - the last occurring in 1806 – but because of its parliamentary nature it almost invariably became politicised. Parliament also initiated investigations into corruption but these too were often highly partisan affairs.

Anti-corruption was useful because it legitimated partisanship and opposition to those in authority: taking the moral high ground justified attacks that might, through different eyes, be seen as self-interested. Anti-corruption could even be used to deflect accusations of corruption. In 1610, for example, Sir Stephen Proctor, who had a commission from the government to recover revenues lost through corrupt practices in return for a payment, found himself accused in Parliament of corruption, attacked by the very men whom he thought were corrupt.

“Corruption” is thus often defined by those who attack what they see as abuses. Anti-corruption is thus never neutral – and we should always seek to identify its agenda. “Anti-corruption” was a term coined in the 1830s and then applied pejoratively to castigate overly self-righteous or overly-zealous reformers. Anti-corruption is inherently political – it challenges those in office in a language that seeks to undercut their legitimacy. Even if impeccably upright and legalistic in tone, such a language cannot but be political, because it too is engaging in a struggle over and for power. It is a way of arguing about the state – whether the state is too large or too small, whether its taxes are too heavy, about whether its policies are oppressive or whether its framework is benign. But this means that the process of reform is deeply political and usually deeply contested, which helps explain why reform is so challenging.

4. History and public dialogue

Today Britain is ranked amongst the least corrupt countries in the world; but it has not always been so and the period between the sixteenth century reformation and nineteenth century reform was one during which many thought of Britain as highly corrupt. *The Craftsman* in 1726, for example, thought the state was rotting from the head down: “the Mystery of State-Craft abounds with such innumerable Frauds, Prostitutions, and Enormities in all Shapes, and under all Disguises, that it is an inexhaustible Fund, an eternal Resource for Satire and Reprehension; since from this grand Fountain of Corruption flow all those little Streams and Rivulets, which have spread themselves through every Part of this Kingdom, and debauched all Ranks and Orders of Men”.²⁹ Plugging “the Fountain of Corruption” was not easy. Anti-corruption was not a rapid, inevitable, coherent or linear process. It faced considerable obstacles, some of which were embedded in everyday practices, and anti-corruption was itself a value-laden and often highly partisan stance. Corruption was a contested and ambiguous notion that was constantly shifting in its nature and definition. The concepts central to the modern notion of anti-corruption - such as accountability, trust, and integrity in office - took at least three hundred years to evolve in Britain.

Key to that history was the public discussion of what constituted corruption. This could take the form of sensationalist scandal-mongering but there was also a less eye-catching but persistent revelation of abuses, scrutiny of public authority, suggestions for reform (even if these were inconsistent and conflicting) and vigorous calls for action. Although corruption was often by its nature secretive, it was also the subject of a surprising amount of open debate and admonition – in newspapers, pamphlets, sermons, satirical images, plays, novels, mass meetings and protests. Anti-corruption had to engage the public as an issue, brought alive by powerful words and biting images. The intensity and quality of such discussion varied, but without a public dialogue there would have been no need to reflect on practices (such as the sale of religious pardons or secular office, trading monopolies, arbitrary fees imposed by public officers, and colonial extortion) that, through custom and practice, had become normalised and no need to distinguish between competing notions of what was corrupt and how to reform it. Britain’s own history has suggested that the public dialogue is as important as the measures to which it led. Sometimes reflection on the past was a way to critique the present; and in that sense, a historical view of corruption both mattered at the time and continues to do so.

²⁹ *The Craftsman* 1, 5 Dec. 1726



Image 9: The fan shows a historical take on corruption: the 1733 excise tax scheme by Sir Robert Walpole, widely seen as corrupt, is likened to the policies of Cardinal Wolsey, both of whom are alleged to have sold their country. Anti-corruption has always thought historically. © Trustees of the British Museum

Discussion sheet

Was Samuel Pepys corrupt?

Introduction

This sheet offers a case study designed to generate debate and reflection amongst public officials, the private sector but also the general public about what constitutes corruption. It focuses on Samuel Pepys, the famous seventeenth-century diarist who recorded his views and behaviour in an unusually frank manner.



Image: John Hayls [Public domain], via Wikimedia Commons

Let's start with some facts. Samuel Pepys was an administrator of the navy in the seventeenth century, during the reign of Charles II. His income increased six-fold during the diary years 1660-1669. Although his official income was £350 pa and in 1660 he had just £25 capital, by the end of 1667 he was worth £7000. Pepys accepted money, gifts and sexual favours from people with whom he did navy business.

Pepys as not corrupt

One perspective is that Pepys was a lovable rogue and brilliant administrator of the navy. In this version Pepys was only doing what everyone else around him did – his patron Lord Sandwich told him “that it was not the salary of any place that did make a man rich, but the opportunity of getting money while he is in the place”. It was not as though he did not have a sense of what was corrupt, since he roundly condemned corrupt behaviour in others. He thus recorded his shock when Richard Cooling, secretary to the important politician the earl of Arlington, boasted that “his horse was a bribe, and his boots a bribe and told us he was made up of bribes and that he makes every sort of tradesman to bribe him; and invited me home to his house to taste of his bribe-wine. I never heard so much vanity from a man in my life”. So what Pepys did was different. He did accept gifts and money but he noted that he had never asked for any of them; that they were done in thanks for “favours”; and that they were “presents”, “gratifications”, “rewards” and “acknowledgements”. He accepted gifts and presents from friends (he was very sociable) and for doing his job very well – he didn't accept bribes to do any injustice but “was not so squeamish as not take people's acknowledgement where I have the good fortune by my pains to do them good and just” service. He only ever took money for things that also benefited the king/state. Thus although Pepys accepted money from one contractor he noted that ‘there is not the least word or deed I have yet been guilty of in his behalf but what I am sure hath been to the King's advantage and profit of the service, nor ever will I’.

When he was offered a bribe to go against the public interest he contemplated returning it: “I... had a difference with Sir W. Batten about Mr. Bowyer’s tarr, which I am resolved to cross, though he sent me last night, as a bribe, a barrel of sturgeon, which, it may be, I shall send back, for I will not have the King abused so abominably in the price of what we buy, by Sir W. Batten’s corruption and underhand dealing”. So Pepys knew what corruption was and condemned it in other administrators throughout his life. But unless he accrued money when he was in office he was likely to have a miserable old age because there was no state pension or welfare system. He was actually quite self-restrained in the wealth he gained –he could, had he been really rapacious, have got a lot more, since there were so few checks on his actions. In any case, Pepys worked so hard for the state that he ruined his eyesight and had to leave off writing his diary.

Pepys as corrupt

A very different take on Pepys would see him as an avaricious man who forced himself on – some might say raped – at least one woman who sought his favour on behalf of her husband and extracted money from ordinary sailors as well as rich government contractors. What he called “acknowledgements” and “presents” were really bribes, and he deluded himself by trying to call them by less pejorative terms. He was evidently ashamed of his conduct: on one occasion he opened a packet containing money with his eyes shut “not looking into it till all the money was out, that I might say I saw no money in the paper if ever I should be Questioned about it”. Pepys lacked integrity in his personal and professional life, and was vain, showing off the silver flagons or the “very pretty Mare” that he had received as bribes. Others certainly saw his actions as corrupt, as a 1679 pamphlet indicates. This raised a printed “hue and cry” after him, the metaphorical communal chase after a common criminal, for having extorted an array of exotic gifts. Pepys and his crony Will Hewer were accused of taking lavish gifts and money that ought to be returned to the seamen from whom they had extorted them.

Pepys only evaded official enquiries into his conduct because he lied to them or hid the true picture: in 1668 Pepys decided to “prepare” those summoned to be interrogated by commissioners of account “about what presents I had from them, that they may not publish them”. Pepys and his colleagues were accused of having “corruptly preferred and postponed payments” and although he resolved “to declare plainly, and, once for all, the truth of the whole, and what my profit hath been”, in the end he found he could evade making the revelation. In the winter of 1669-70 Pepys was again called to account and responded by protesting that he never did “directly or indirectly ...demand or express any expectation of fee, gratuity or reward from any person for any service” but deliberately underestimated the amount he was now worth by £6000 in order to make him seem more innocent.

So was Pepys corrupt?

Pepys seems to have been caught between different conceptions of corruption and probity, with accusations of corruption becoming highly politicised and polemical in character, in large part because so many of the practices were deeply embedded in the wider social and cultural practices of the time, such as friendship, patronage, clientelism, and customs of respect and deference. Does this excuse his behaviour?

